

-PS-O-

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOSEPH DETTELIS,

Petitioner,

-v-

JOHN PALILLO, Chief Deputy U.S. Marshals,  
Buffalo, New York,

Respondent.

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**DECISION AND ORDER**  
04-CV-0685A

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U.S. DISTRICT COURT  
W.D.N.Y. BUFFALO

On August 24, 2004, the petitioner, Joseph Dettelis, filed a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, challenging his pretrial detention under the Bail Reform Act, 18 U.S.C. § 3142. The petitioner had been detained since May 1, 2003, in connection with a pending criminal indictment, see *United States v. Detellis*, 03-CR-0062A(Sc)), because the Magistrate Judge had found that he posed a risk of flight.

On September 3, 2004, this Court issued an order directing the petitioner to show cause why the petition should not be dismissed for his failure to exhaust his remedies available to him under the Bail Reform Act (i.e. appeal of the detention order to the undersigned). The petitioner filed a response on September 17, 2004, and an amended petition on October 4, 2004.

In the meantime, the petitioner did appeal his pretrial detention to this Court pursuant to 18 U.S.C. 3145. On April 25, 2005, this Court granted the defendant's motion to be released upon the posting of \$100,000 bail, to be secured by cash or property.<sup>1</sup> The petitioner was unable to post the required bail and remained on pretrial detention until December 7, 2005, when he was convicted of all 20 counts following a jury trial. On May 10, 2006, he was sentenced to 36 months of imprisonment for counts 1 through 11, and 50 months of imprisonment for counts 12 through 20, to run concurrently, to be followed by a term of supervised release of 1 year on counts 1 through 11, and 3 years on counts 12 through 20, to run concurrently.

Because the petitioner is now in federal custody based upon his conviction and is no longer on *pretrial detention*, his request for habeas corpus release from pretrial detention is moot. See *Thorne v. Warden, Brooklyn House of Detention for Men*, 479 F.2d 297, 299 (2d Cir. 1973) ("Since [petitioner] is now held as a convicted defendant rather than merely on a criminal charge not yet brought to trial, the issue as to the legality of his continued pretrial detention has been mooted, and it therefore becomes unnecessary to resolve the constitutional issues presented"); see also *Fassler v. United States*, 858 F.2d 1016, 1018 (5<sup>th</sup> Cir. 1988). Accordingly, the Court finds that the amended petition must be dismissed as moot.

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<sup>1</sup> This is the bail amount that the defendant himself had requested.

**ORDER**

IT HEREBY IS ORDERED, that the amended petition is dismissed; and FURTHER, that leave to appeal as a poor person, pursuant to 28 U.S.C. § 1915(a)(3), is denied because any appeal from this judgment would not be taken in good faith.

IT IS SO ORDERED.



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HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

Dated: June 26, 2006